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SH2386375

12 - Witness [redacted] - Homicide

13 - Witness [redacted] - Homicide

EXHIBITS

A **One (1) CD containing a scanned copy of the Homicide investigation book, Digital Photographs and Associated Reports of file # 015-00063-3199-013.**

B **Memorandum from the Los Angeles County District Attorney's Office Justice System Integrity Division to Captain Kent Wegener, dated May 14, 2020.**

C **One (1) CD containing radio traffic.**

D **One (1) flash drive containing video.**

MISCELLANEOUS DOCUMENTS

(6) Six signed Administrative Rights (Sworn & Non-Sworn) Forms

Homicide Report, file #015-11858-0287-011

Executive Department State of California – Executive Order N-40-20

Certified Mail Receipts of Witness Letters

LASD Vehicle Pursuit Packet related to file #915-07085-1575-048

POST training records of involved employees; Sergeant Kamal Ahmad and Deputies Daniel Leon, Darell Edwards and Gonzalo Galvez.



LOS ANGELES COUNTY DISTRICT ATTORNEY'S OFFICE
BUREAU OF FRAUD AND CORRUPTION PROSECUTIONS
JUSTICE SYSTEM INTEGRITY DIVISION

JACKIE LACEY • District Attorney
JOSEPH P. ESPOSITO • Chief Deputy District Attorney
VICTORIA L. ADAMS • Assistant District Attorney

JAMES GARRISON • Director

May 14, 2020

CAPTAIN KENT WEGENER
Los Angeles County Sheriff's Department
Homicide Bureau
1 Cupania Circle
Monterey Park, California 91755

Re: Officer Involved Shooting of Eddie Tapia
J.S.I.D. File #15-0485
L.A.S.D. File #015-00063-3199-013

Dear Captain Wegener:

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the September 10, 2015, fatal shooting of Eddie Tapia by Los Angeles County Sheriff's Sergeant Kamal Ahmad and Deputies Darell Edwards, Daniel Leon, and Gonzalo Galvez. Our detailed analysis of this incident is contained in the attached memorandum.

Very truly yours,

JACKIE LACEY
District Attorney

Amy Lentz for
SHANNON PRESBY
Head Deputy District Attorney
Justice System Integrity Division

c: Sergeant Kamal Ahmad, #[redacted]
Deputy Darell Edwards, #[redacted]
Deputy Daniel Leon, #[redacted]
Deputy Gonzalo Galvez, #[redacted]

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MEMORANDUM

TO: CAPTAIN KENT WEGENER
Los Angeles County Sheriff's Department
Homicide Bureau
1 Cupania Circle
Monterey Park, California 91755

FROM: JUSTICE SYSTEM INTEGRITY DIVISION
Los Angeles County District Attorney's Office

SUBJECT: Officer Involved Shooting of Eddie Tapia
J.S.I.D. File #15-0485
L.A.S.D. File #015-00063-3199-013

DATE: May 14, 2020

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the September 10, 2015, fatal shooting of Eddie Tapia by Los Angeles County Sheriff's Department (LASD) Sergeant Kamal Ahmad and Deputies Daniel Leon, Darell Edwards, and Gonzalo Galvez. We have concluded Sergeant Ahmad and Deputies Leon, Edwards and Galvez acted lawfully in self-defense and the defense of others, and used reasonable force in apprehending a dangerous fleeing felon.

The District Attorney's Command Center was notified of the shooting at approximately 10:50 p.m., on September 10, 2015. The District Attorney Response Team (DART) responded to the location, and was given a briefing regarding the circumstances surrounding the shooting and a walk-through of the scene.

The following analysis is based on investigative reports, firearms analysis reports, audio recordings, the autopsy report, crime scene diagrams and sketches, photographic and video evidence, and witness statements submitted by LASD Homicide Detective Judith Luera.

FACTUAL ANALYSIS

On September 10, 2015 at approximately 6:15 p.m., LASD East Los Angeles Station took a stolen vehicle report on a 1998 white Honda Civic. Shortly thereafter, LASD Aero Bureau Helicopter Air 21 advised Downey Police Department (DPD) officers of a Lo-Jack tracking signal activation in the City of Downey for the stolen Civic. The LASD Air Unit advised that the Civic was traveling eastbound on Telegraph Road. Shortly after the initial broadcast, the LASD Air Unit indicated that the Civic was involved in a traffic collision at Telegraph Road, west of Passons Boulevard.

DPD Officers [redacted] and [redacted] located the Civic traveling southbound on Shellyfield Road and with lights and sirens activated began to follow the Civic. The Civic did not yield and a pursuit began. During the pursuit, the driver and sole occupant of the Civic, later identified as Eddie Tapia, drove in excess of the speed limit, failed to stop for posted stop signs, and ran a solid red light at the intersection of Florence and Woodruff Avenues. At this time, the ground pursuit was terminated due to safety concerns. The LASD Air unit continued to track the vehicle. The Air Unit kept eyes on the Civic as it traveled on the 605 freeway for a short distance and exited at Florence Boulevard.

When Tapiá entered the City of Santa Fe Springs, Whittier Police Department (WPD) units engaged in a second vehicle pursuit. The pursuit again quickly turned dangerous, as Tapia accelerated to high speeds, drove in lanes of opposing traffic, ran red lights and stop signs, and persistently endangered the public through a pattern of reckless driving. While in Whittier, Tapia abandoned the Civic after blowing out the two rear tires near Whittier Boulevard and Broadway Avenue. Tapia then fled on foot into a neighborhood near Broadway Avenue and See Drive.

[redacted] was retrieving an item from the trunk of her Toyota Camry when she saw Tapia run towards her and then point a gun at her. Tapia said, "Give me your fucken' keys!" [redacted] dropped the car keys, which Tapia retrieved, then got into the Camry and drove off. LASD Air saw Tapia's actions and broadcast the carjacking over the air. A short time later, police rejoined the chase. The ensuing pursuit at various points reached speeds in excess of 100 miles per hour, causing WPD to terminate their pursuit due to public safety concerns. The Montebello Police Department initiated a third pursuit, but were directed by dispatch to terminate their pursuit after a short time.

The California Highway Patrol (CHP) located Tapia on the 710 freeway and initiated a vehicle pursuit. Tapia exited the freeway and proceeded southbound on Lakewood Avenue. CHP Officer [redacted] conducted a pursuit intervention technique (PIT) maneuver on Lakewood Boulevard in Downey, causing the Camry to spin and collide with another vehicle stopped by the side of the road. [redacted] positioned his vehicle behind the Camry and prepared to extract Tapia. [redacted] yelled at Tapia to put his arms up and slowly exit the vehicle. After approximately one minute, Tapia suddenly exited the car with a pistol in his right hand, pointed the pistol skyward, and discharged a single round.



Figure 1: Muzzle flash was visible from Tapia's discharge of pistol as he exited the Camry.

Tapia then ran south on Lakewood Boulevard and entered a nearby Chris & Pitts BBQ restaurant in Downey. The restaurant was crowded with customers. Numerous patrons inside the restaurant reported that Tapia entered and waved a chrome colored handgun and yelled, "Get down on the ground!" Tapia demanded water from [redacted] a restaurant employee who was refilling drinks for customers. Tapia pointed the handgun in the face of restaurant employee [redacted] and ordered her to get down. Tapia said he needed medicine and repeatedly said, "Give me some drugs!" Restaurant employees offered him over-the-counter pain relievers, but Tapia made it clear that he wanted "hard drugs."

[redacted] suggested that Tapia allow the children to leave. He agreed. Multiple witnesses reported hearing Tapia say, "I want all the kids and older people to go first." After some additional persuasion from another patron, Tapia allowed more people to leave. Approximately 50 people were allowed to leave in two distinct groups, but Tapia retained four male hostages. [redacted], one of the last people who left, reported that Tapia stated he did not want to hurt anybody, but that he was not going back to jail. Tapia said that the police were pursuing him for committing a carjacking and lighting a woman on fire.

The four remaining hostages were gathered in a group near the center of the restaurant. They were able to establish a rapport with Tapia, who eventually gave them some freedom of movement (allowing them use of the restroom and to eat and drink), but Tapia also warned them not to resist him. One of the hostages, [redacted] videotaped Tapia recording a statement to his children in which Tapia apologized for his life choices, expressed his love, and stated that he did not want to go back to jail. Another hostage [redacted] recognized symptoms of Tapia being under the influence of methamphetamine.

As Tapia was holding hostages in Chris and Pitts, DPD officers, CHP officers and LASD Pico Rivera deputies surrounded the restaurant. DPD requested the assistance of LASD Special Enforcement Bureau (SEB). SEB arrived on scene led by Sergeant Kamal Ahmad, who took over the containment after being briefed by DPD and CHP, and prepared to conduct a rescue operation. SEB personnel were advised that Tapia had committed a carjacking; was armed with a loaded handgun that he discharged when he fled the Camry; was holding hostages; and had made statements to the effect that he would not surrender. Ahmad was provided telephone contact information for Tapia from a hostage whom Tapia permitted to leave, but whose phone Tapia had taken when the hostage exited. Ahmad authorized SEB Sergeant Patrick Hayes to attempt phone contact with Tapia utilizing the number provided by the released hostage.

At 8:13 p.m., Hayes called Tapia, and spoke with him for 52 seconds before Tapia abruptly ended the call. During the conversation, Hayes asked Tapia his name. Tapia just laughed. Hayes asked Tapia to come outside peacefully. Tapia responded that he was not going to come out because he did not trust law enforcement. Hayes again asked Tapia for his name, but Tapia declined to give it, told Hayes to call back in a minute, and then hung up. During the next half hour, Hayes called Tapia a total of eight times (the last attempt occurring at 8:40 p.m.), but Tapia never answered again. All of the calls either went to voicemail or were dropped.[1]

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[1] Based on subsequent text communication between Hayes and one of the hostages, it was learned that the phone being used by Tapia had lost its charge.

A plan was formulated to divide the SEB force into two crisis teams. Crisis Team #1 was designated to make entry at the front of the restaurant, and Crisis Team #2 was designated to make simultaneous entry near the kitchen should an intervention become necessary. Crisis Team #1 included Edwards, Galvez, Ahmad, and Deputy Ricardo Munoz, among others. Crisis Team #1 was positioned just east of the main entrance near the east facing front door. Leon, Edwards, Galvez, and Ahmad all reported being briefed prior to the operation that Tapia had led officers on a dangerous pursuit, fired at least one shot in the air, and was holding hostages at Chris and Pitts.[2] Galvez' duties were to breach the front door in the event the hostages were in danger of being shot by Tapia. Galvez was armed with a Heckler & Koch model MP5 rifle, which he slung over his back so he could maneuver the pick and ram, and his 9mm Beretta semiautomatic weapon. Edwards was armed with a 9mm Heckler & Koch model MP5 submachine gun. Ahmad was armed with his .223 caliber Colt model M4 rifle.

SEB Deputy Daniel Leon, assigned to Crisis Team #2, was assigned to an observation post near a north-facing window. While stationed at this position, Leon was advised that contact had been established with Tapia, but Tapia was refusing to surrender. From his observation post, Leon saw Tapia inside the restaurant standing near a hostage. Tapia appeared agitated, and was waving a handgun in the air. Perceiving that Tapia posed an extreme and immediate danger to the hostages, Leon verified that the area behind Tapia was clear and then discharged two rounds from his rifle, striking Tapia. After Leon fired, SEB team member Deputy Adam Stoll, who was positioned alongside Leon, broadcast that a deputy involved shooting had just occurred.

Tapia turned and exited the kitchen doorway where he had been standing and moved toward the main dining room out of Leon's view.



Figure 2: Tapia as he fled the kitchen doorway after being shot.

After exiting the doorway, Tapia turned right and moved down the aisle toward the back dining room, but collapsed to the floor in the area between the main and back dining rooms. See Figure 3 below.

[2] Some deputies reported that they were under the impression that Tapia had fired at officers. Others believed Tapia had carjacked two vehicles. All deputies were aware that Tapia had carjacked at least one person, was armed with a handgun, and was holding a number of hostages.



Figure 3: Tapia moving down the aisle toward rear dining room.

Edwards, a member of Crisis Team #1, heard two gunshots followed by an announcement via his radio headset of, "Crisis now! Crisis now!" Galvez breached the door and the team made entry through the east front doors. Crisis Team #1 members described hearing what they believed to be a third gunshot just prior to entry. Edwards spotted a couple of hostages as he moved through the restaurant. Galvez saw a blood trail going from the kitchen to the dining room, and a hostage on the floor positioned near where the blood trail ended. Deputy Ricardo Munoz saw Tapia move toward the rear dining room and directed the team's attention by yelling, "Suspect deep! Suspect deep!" to indicate that Tapia had moved further away from them in the building.

Edwards and Ahmad located Tapia, who appeared to be crawling toward the back of the restaurant with a gun in his hand. Ahmad was concerned that gunfire he heard earlier came in part from Tapia, that Tapia may have been shooting hostages, and that Tapia was moving to a position to continue shooting hostages. As the team advanced, Edwards believed Tapia was attempting to turn towards them and raise the gun. Galvez similarly indicated that he saw Tapia bring the pistol out from under his body and point it in Galvez's direction. Ahmed also saw Tapia turn toward the advancing deputies. Believing that one of the hostages had already been shot and that Tapia posed an immediate threat to others, Galvez fired an estimated five to six rounds from his service weapon at Tapia. Likewise concluding that Tapia posed an immediate threat, Ahmed and Edwards simultaneously engaged and fired several rounds each. Tapia stopped moving and Galvez moved closer while keeping Tapia at gunpoint.

Ahmed ordered Galvez to remove the weapon from Tapia's hand. Ahmad saw that Tapia's finger was on the trigger at the time Galvez disarmed him. Galvez attempted to kick the pistol away from Tapia's hand, but Tapia had a strong grip on the weapon. Galvez had to pry open Tapia's hand in order to disarm Tapia. See Figure 4 below.

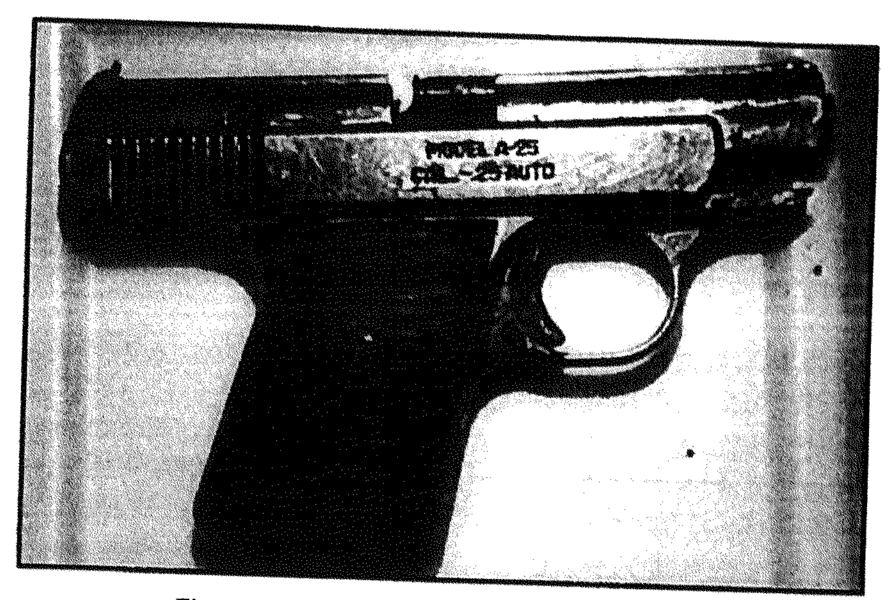


Figure 4: .25 caliber automatic pistol used by Tapia

Deputy Stephan Doucette, a paramedic assigned to SEB, was called forward to attend to Tapia. After conducting an assessment and determining that there were no signs of life, Doucette declared Tapia deceased at 9:06 p.m.

A post-mortem medical examination was conducted by Los Angeles County Department of Coroner Deputy Medical Examiner Dr. Kevin Young on September 15, 2015. Dr. Young concluded that Tapia's death was caused by multiple gunshot wounds. Tapia sustained a total of 16 gunshot wounds. The Medical Examiner's report stated, "The actual number of shots fired could be less due to re-entry of bullets into the body." Three of the gunshot wounds were deemed to be fatal. In total, nine projectiles were recovered by Dr. Young during the autopsy and booked into evidence. Of these, one projectile was determined by firearms analysis to display characteristics similar to test fires from Leon's rifle. Two projectiles displayed characteristics similar to test fires from Edward's submachine gun. Four projectiles displayed characteristics similar to test fires from Galvez's pistol. Two projectiles displayed characteristics similar to test fires from Ahmed's rifle. Toxicological analysis also determined that there was evidence of amphetamine and methamphetamine in Tapia's blood at the time of his death.[3]

Leon's rifle was inventoried and found to have a magazine in the well containing 25 rounds, with an additional round in the chamber. Leon indicated that prior to the shooting he had 27 rounds in the magazine and one round in the chamber. Two .223 caliber cartridge casings were collected near the window where Leon reported having fired his rounds. The evidence is consistent with Leon having fired two rounds. Edward's submachine gun was inventoried and found to contain 26 rounds in the magazine, and no rounds in the chamber. Edwards indicated that prior to the incident his weapon housed a magazine with 28 rounds and one round in the chamber. The evidence is consistent with Edwards having fired three rounds. Galvez's pistol was inventoried and found to contain nine rounds in the magazine, with no round in the chamber. Galvez indicated that the magazine contained 14 rounds prior to the shooting, with an additional round

[3] A bag containing a white powdery substance resembling methamphetamine was found in Tapia's left front shorts pocket.

in the chamber. The evidence is consistent with Galvez having fired six rounds. Ahmad's rifle was inventoried and found to have a magazine in the well containing 24 rounds with one round in the chamber. Ahmad estimated that prior to the shooting he had 27 rounds in the magazine and a round in the chamber. The evidence is consistent with Ahmad having fired three rounds.

The investigation determined that Tapia was armed with a .25 caliber Sundance Industries model A25 chromed automatic pistol. After the incident, Tapia's weapon housed an unexpended cartridge casing that failed to eject. The pistol's magazine contained a single live round. A .25 caliber cartridge casing was found on the street near the stolen Camry. Another .25 caliber fired cartridge casing was found inside the restaurant along a path Tapia traversed after being shot by Leon. A small caliber projectile was found near the end of the counter aisle where Tapia turned after being shot. The investigative report did not furnish a ballistic analysis to establish which weapon fired the projectile. While the investigative reports did not provide any scientific analysis of the cartridge casings, the casing found on the street corroborates dash camera video footage of Tapia firing a round in the air when he exited the Camry. The .25 caliber cartridge casing in the restaurant corroborates reports by deputies of hearing a gunshot distinct from Edwards' initial volley. One of the hostages also recounted seeing Tapia put the pistol in his pocket right before Tapia was shot. That same hostage reported seeing Tapia try to remove the pistol from his pocket as Tapia fled down the aisle after being shot and heard gunshots at about the same time. The coroner's report indicated that Tapia may have sustained a self-inflicted leg wound, consistent with the hostage's account of Tapia struggling to retrieve the weapon from his pocket.

LEGAL ANALYSIS

California law permits the use of deadly force in self-defense or in the defense of others if the person claiming the right actually and reasonably believed that he or others were in imminent danger of great bodily injury or death. Penal Code § 197; *People v. Randle* (2005) 35 Cal.4th 987, 994 (overruled on another ground in *People v. Chun* (2009) 45 Cal.4th 1172, 1201); *People v. Humphrey* (1996) 13 Cal.4th 1073, 1082; *see also,* CALCRIM No. 505. In evaluating whether a police officer's use of force was reasonable, it is helpful to draw guidance from the objective standard of reasonableness adopted in civil actions alleging Fourth Amendment violations: "The 'reasonableness' of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than the 20/20 vision of hindsight. . . . The calculus of reasonableness must embody allowance for the fact that police officers are often forced to make split-second judgments – in circumstances that are tense, uncertain, and rapidly evolving – about the amount of force that is necessary in a particular situation." *Graham v. Connor* (1989) 490 U.S. 386, 396-397.

In protecting oneself or another, a person may use all the force which that person believes reasonably necessary and that would appear to a reasonable person, in the same or similar circumstances, to be necessary to prevent the injury which appears to be imminent. CALCRIM No. 3470. An officer has "probable cause" in this context when he knows facts which would "persuade someone of reasonable caution that the other person is going to cause serious physical harm to another." CALCRIM No. 507. If the person's beliefs were reasonable, the danger does not need to have actually existed. *Id.*

A police officer may use reasonable force to effect an arrest, prevent escape, or overcome resistance of a person the officer believes has committed a crime. Penal Code § 835a. An officer "may use all the force that appears to him to be necessary to overcome all resistance, even to the taking of life; [an officer is justified in taking a life if] the resistance [is] such as appears to the officer likely to inflict great bodily injury upon himself or those acting with him." *People v. Mehserle* (2012) 206 Cal.App.4th 1125, 1146.

A killing of a suspect by a law enforcement officer is lawful if it was: (1) committed while performing a legal duty; (2) the killing was necessary to accomplish that duty; and (3) the officer had probable cause to believe that (a) the decedent posed a threat of serious physical harm to the officer or others, or (b) that the decedent had committed a forcible and atrocious crime. CALCRIM No. 507, Penal Code § 196. A forcible and atrocious crime is one which threatens death or serious bodily harm. *Kortum v. Alkire* (1977) 69 Cal.App.3d 325, 333. When acting under Penal Code § 196, the officer may use only so much force as a reasonable person would find necessary under the circumstances. *People v. Mehserle* (2012) 206 Cal.App.4th 1125, 1147. The officer may only resort to deadly force when the resistance of the person being taken into custody "appears to the officer likely to inflict great bodily injury on himself or those acting with him." *Id.* at 1146; quoting *People v. Bond* (1910) 13 Cal.App. 175, 189-190.

The prosecution has the burden of proving beyond a reasonable doubt that a killing was not justified. CALCRIM Nos. 505, 507. As noted by one California appellate opinion, "[w]here the peril is swift and imminent and the necessity for action immediate, the law does not weigh in too nice scales the conduct of the assailed and say he shall not be justified in killing because he might have resorted to other means to secure his safety." *People v. Collins* (1961) 189 Cal.App.2d 575, 589.

The evidence examined in this investigation shows that Tapia stole a car and led police on a high speed chase. When the car became disabled, he carjacked a woman at gunpoint and fled in her Camry. Tapia continued to lead police on a dangerous high speed pursuit through multiple cities. The pursuit ended with a PIT maneuver. Rather than submit to police authority, Tapia fired his weapon while exiting the car. He fled into a crowded restaurant and seized control of the premises by force. He communicated to restaurant patrons an intent not to be captured, and made a consistent statement to an SEB representative. Tapia held four men hostage and was observed waving the pistol while interacting with a hostage. Even after being shot, during crisis team intervention Tapia clung to the pistol and demonstrated an intent to resist. In totality, these circumstances suggest that Tapia was likely to inflict great bodily injury or death on others. Deputies were therefore justified in utilizing deadly force to protect themselves and others whom Tapia threatened, and the force used was reasonable in apprehending a dangerous felon.

CONCLUSION

We find that Sergeant Ahmad and Deputies Edwards, Galvez, and Leon acted in lawful self-defense and defense of others when they used deadly force against Eddie Tapia. We further find they used lawful force in apprehending a fleeing felon. We are closing our file and will take no further action in this matter.